

(N. J. 110.)

MISBRANDING OF SIRUP.

(AS TO QUANTITY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 29th day of May, 1909, in the district court of the United States for the district of Colorado, in a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of a misbranded sirup, that is to say, 19 cases labeled, "10 one gallons," 19 cases labeled "16 half-gallons," and 12 cases labeled, "24 quarts," all of which contained cans, the contents of which were less than the quantity stated on the labels on the cases, Farrell & Co., a corporation of Omaha, Nebr., consignors and claimants, having appeared and admitted the allegations of the libel, the court adjudged the goods misbranded and rendered its decree in substance and in form as follows:

UNITED STATES OF AMERICA, DISTRICT OF COLORADO, ss:

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN AND FOR THE
DISTRICT OF COLORADO.

THE UNITED STATES OF AMERICA, <i>Libelant</i> ,	} No. 2248.
vs.	
FIFTY CASES OF SYRUP.	

Now at this day comes The United States of America, by Thomas Ward, jr., United States attorney for the district of Colorado, and Farrell & Company, of Omaha, Nebraska, the claimants and owners of the forty-nine cases of syrup, by Whitehead & Vogl, their attorneys, and by consent of the parties hereto, it is agreed that all of the allegations contained in the libel heretofore filed in the above entitled cause are true and that the United States is entitled to recover herein.

It is therefore ordered, adjudged, and decreed, that the forty-nine cases of canned syrup heretofore seized by the United States marshal for the district of Colorado under writ of monition and attachment heretofore issued herein, be, and the same are hereby, condemned as being misbranded under the provision of the Food and Drugs Act of June 30, 1906.

And it appearing to the court that the costs of this case have been paid by claimant, Farrell & Company, and the claimant having filed herein a good and sufficient bond to the effect that the said forty-nine cases of canned syrup so seized as aforesaid shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906,

It is further ordered, adjudged, and decreed that the said marshal be, and he is hereby, directed to release the said forty-nine cases of canned syrup and restore the same to the claimant, Farrell & Co.

Done in open court this 29th day of May, A. D. 1909.

By the court.

ROBERT E. LEWIS,
Judge.

The facts in the case were as follows:

On or about March 30, 1909, an inspector of the Department of Agriculture found in the possession of the Lawrence Wardenburg Mercantile Company, Trinidad, Colo., 19 cases (each containing 10 cans) of sirup, labeled and branded "10 one-gallons. Star Syrup. Farrell & Company, Omaha, Neb.;" 19 cases (each containing 16 cans) of sirup, labeled and branded "16 half-gallons. Star Syrup. Farrell & Company, Omaha, Neb.;" and 12 cases (each containing 24 cans) of sirup, labeled and branded "24 quarts. Star Syrup. Farrell & Company, Omaha, Neb.;" These goods had been shipped to the Lawrence Wardenburg Mercantile Company by Farrell & Co., the manufacturers, from Omaha, Nebr., during September, 1908, and January, 1909. A number of the cans were procured and subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and it was found that the cans from the cases labeled "10 one-gallons" contained 0.723 gallon, making a shortage of 27.7 per cent; that those from the cases, labeled "16 half-gallons," contained 0.356 gallon, making a shortage of 28.8 per cent; and those from the cases labeled "24 quarts" contained 0.716 quart, making a shortage of 28.4 per cent. The goods were therefore misbranded within the meaning of section 8 of the act, and on March 30, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. McCABE,

Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *November 1, 1909.*